IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8594 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHHAGANBHAI T PATEL

Versus

VALLABHBHIA K PATEL

Appearance:

MR BJ JADEJA for Petitioner

None present for Respondent No. 1

MS MANISHA LAVKUMAR for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 14/07/2000

ORAL JUDGEMENT

#. Arguments in this case were heard of the parties on 4.5.2000 and for dictation of the order the matter was ordered to be placed in the court on 20.6.2000. On that

date the court could not find time to dictate the order.

#. From the order of the Collector, Bhavnagar dated 30.4.1989 I find that the appeal filed by the respondent No.1 was partly allowed and the order dated 8.12.87 passed by the Deputy Collector, Bhavnagar was set aside and the case was remanded to the Deputy Collector, Bhavnagar for fresh decision and to examine whether the proceedings have been decided according to the guidelines issued by the Government in the Circular Nos.TNC-1460-3242-J- dated 26.7.60 and the Circular No.RTS-1075-J dated 30.10.71. The respondent No.1 has not challenged this order as he has not filed any revision application before the State Government. He was satisfied with this order of the Collector, Bhavnagar. However, the petitioner felt aggrieved by the order of the Collector, Bhavnagar filed the revision application before the State Government which came to be rejected under the order dated 31.7.89 hence this Special Civil Application.

#. I find sufficient merits in the contention of the learned counsel for the petitioner that the revisional authority could have dismissed the revision application but the order of the Collector as a whole could not be set aside. The order of the Collector has been passed on appeal of the respondent No.1 and when he has not challenged that order the order as a whole could not have been set aside. Only on this short ground this Special Civil Application succeeds and the same is allowed. The order of the revisional authority is quashed and set aside. As a consequence of the quashing and setting aside of the order of the revisional authority the order of Deputy Collector dated 11.9.89 Annexure-D is also quashed and set aside. the Deputy Collector, Bhavnagar is directed to decide the matter afresh within a period of two months from the date of the receipt of the writ of this order.

The Rule and Special Civil Application stand disposed of accordingly with no order as to costs.

(S.K.Keshote, J.)
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